

For: State and County Offices

**Servicing Bankrupt Accounts When All Obligor
Have Not Received Discharges**

Approved by: Deputy Administrator, Farm Loan Programs



1 Overview

A

Background

RD Instruction 1962-A, section 1962.47:

- provides direction on servicing accounts in bankruptcy post-discharge, the bankruptcy debtors have no personal liability for the Agency debt
- is silent about servicing accounts after bankruptcy discharges when all obligors have not received a discharge.

Except in community property States involving spouses, consult Regional OGC in these States, the discharge of debt does not apply to other joint debtors who did not file bankruptcy. Jointly liable nondischarged obligors are obligated to repay the entire debt.

B

Purpose

This notice provides direction for servicing bankrupt accounts after discharge when all obligors have not been discharged of the debt through bankruptcy.

C

Contact

If there are questions:

- County Offices shall contact the State Office
- State Offices shall contact Bruce Mair, LSPMD at 202-690-4009.

<p>Disposal Date</p> <p>June 1, 2002</p>	<p>Distribution</p> <p>State Offices; State Offices relay to County Offices</p>
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2 Servicing Actions

A

Chapter 7 Liquidation Bankruptcies

When 1 or more obligors have been discharged of the debt through Chapter 7 bankruptcy, but other jointly liable obligors remain, the account name and identification number will be changed to the name and social security number of an existing jointly liable obligor. After the identification is changed, the bankruptcy action pending flag must be removed to permit collection through the Treasury Offset Program and internal administrative offset.

If no existing jointly liable obligor remains and there is security requiring liquidation, the account will be classified collection-only according to FmHA Instruction 1951-S, Exhibit O. If no security remains, the debt will be canceled according to RD Instruction 1956.70(b)(3)(c).

After all 1951-S loan servicing rights are exhausted, consult Regional OGC before undertaking liquidation action. See RD Instruction 1962.47(g). The debts of discharged borrowers will be canceled without the signature of the debtor according to RD Instruction 1956.70(b)(3). Any remaining obligors liable for the debt will be sent RD Instruction 1955-A, Exhibit F.

B

Chapters 11, 12, and 13 Reorganization Bankruptcies

When 1 or more obligors have been discharged of unsecured debt through confirmation of Chapter 11, 12, or 13 bankruptcy plans, but other jointly liable obligors remain:

- the account will be classified collection-only according to FmHA Instruction 1951-S, Exhibit O
- the State Office will seek the advice of the Regional OGC about pursuing separate collection actions against nondischarged obligors.

Notes: The **unsecured debt** is the debt that was discharged according to the bankruptcy plan. The discharged obligor is no longer personally liable for this debt. The **secured debt** must be paid according to the bankruptcy plan.

The nondischarged obligor remains liable for the entire debt minus payments made under the bankruptcy plan. Consult with Regional OGC and take collection action accordingly.

Continued on the next page

2 Servicing Actions (Continued)

B

**Chapters 11, 12,
and 13
Reorganization
Bankruptcies
(Continued)**

If all obligors have been discharged of the unsecured debt, or are defunct or deceased, and the estate will not be probated or probate has been closed, unsecured debt may be settled under RD Instruction 1956-B, sections 1956.70(b)(1) and (3). Debts of deceased or defunct parties who received previous debt forgiveness must be settled according to RD Instruction 1956-B, Exhibit B and the Debt Collection Act.
